

## **EXHIBIT E**



## Credit and Debit Card Receipts Could Lead to Court

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Small-business owners who print receipts on credit and debit card purchases could find themselves the target of a lawsuit based on lack of specificity of a 2003 law. The *Fair Credit Transactions Act* (FACTA) took effect on Dec. 4, 2006 and restricts the allowable information that can be printed on electronically generated credit card receipts. These receipts are no longer allowed to include more than the last five digits of the card number or the expiration date.

Individuals who continue to print receipts that include such information, and do so "willfully" can be held liable to pay their customers economic damages of between \$100 and \$1,000, plus unlimited punitive damages and attorneys' fees. The aim of this bill was to protect consumers against identity theft.

Unfortunately, the bill was written in such a vague way that many businesses thought they were in compliance by printing only the last five digits of the card number and the expiration date. Since the date of enactment, myriad lawsuits have been filed by plaintiffs arguing that this was a violation of the law and that receipts could not display both the card's last five digits and expiration date. Creating further incentive to individuals and attorneys to sue, the law does not specify that only individuals harmed by the violation are allowed to file suit.

Some states have laws on the books addressing consumer identity protection, but not all do. It is still unclear how states plan to address possible preemption of their laws by FACTA. Ohio, for example, rejected a suit from a plaintiff who had filed various lawsuits against companies that printed the expiration date on their receipts. In their findings, the court cited that the individual wasn't injured by a violation, using the Ohio state law over the federal law.

Legislation has recently been introduced in the House that would clarify the situation. Sponsored by Congressman Tim Mahoney (D-Fla.), the *Credit and Debit Card Receipt Clarification Act* (H.R. 4008) would protect businesses that printed an expiration date on any credit or debit card receipt provided to a consumer between Dec. 4, 2004 and the date of enactment of H.R. 4008, but otherwise complied with the requirements of the Fair Credit Reporting Act, from being considered in willful noncompliance.

NSBA recommends that small-business owners be aware of the information that is printed on credit and debit card receipts, and take steps to remove the expiration dates.